FARAD CONSTITUTION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 582/2006

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.	Court's or Judge's Orders

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(Shri A.C. Dharmadhikar, Adv. for petitioners)
(Shri A.S. Fulzele, A.G.P. for respdt. Nos.1 & 3)
(Shri P.N. Kothari, Adv. for respondent No.2)

CORAM:- **D.D. SINHA &**
A.B. CHAUDHARI, JJ.
DATED :- 18.01.2007

Heard learned Counsel for the petitioners, learned A.G.P. for respondent Nos.1 and 3 and learned Counsel for respondent No.2.

Shri Kothari, learned Counsel for respondent No.2 has brought to the notice of this Court that on earlier occasion, W.P. No.1507/2004 was filed having identical cause of action, which is involved in the present petition. However, vide order dated 25.7.2005, the petitioners were permitted to withdraw the said writ petition and liberty was given to file appropriate proceedings, keeping the issue involved in the said writ petition open. It is, therefore, contended that the petitioners cannot once again file the petition agitating

the same grievance which was raised in the earlier petition and which was permitted to be withdrawn. This fact has not been disputed by the learned Counsel for the petitioners.

We have perused the order dated 25.7.2005, passed in W.P. No.1507/2004, which reads thus ;

> "Shri Joshi, learned Counsel for the petitioners, seeks permission to withdraw the petition with liberty to file appropriate proceedings and prays that issues raised in the petition may be kept open.
>
> The Counsel for the other side do not have any objection.
>
> In the circumstances, petition is dismissed as withdrawn with liberty to file appropriate proceedings, if otherwise permissible in law. Needless to mention that issues raised in the petition are kept open.
>
> Since petition is permitted to be withdrawn, Civil Application Nos.2988/2004 and 4205/2004 are also dismissed."

It is not in dispute that the cause of action involved in the present writ petition is identical one, involved in the earlier writ petition and in view of the above referred order, it is clear that the petitioners were permitted to withdraw the writ petition with liberty to file appropriate proceedings.

In that view of the matter, it is not open for the petitioners to canvass the said grievance by filing

another petition in this Court, and therefore, on this short ground the present writ petition is dismissed.

JUDGE **JUDGE**

ssw